

**1 FEBRUARY 1998**



**Personnel**

**TRANSITIONAL COMPENSATION FOR  
ABUSED DEPENDENTS**

**COMPLIANCE WITH THIS PUBLICATION IS MANDATORY**

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OPR: HQ AFPC/DPSFC  
(SMSgt Victor V. Villarreal)  
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Certified by: HQ AFPC/DPS  
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This Air Force Instruction (AFI) implements policy, assigns responsibilities, establishes administrative and management guidelines for transitional compensation for abused dependents, and provides instructions for processing claims. It implements Air Force Policy Directive (AFPD) 36-30, *Military Entitlements*, and Department of Defense Instruction (DoDI) 1342.24, 23 May 1995, *Transitional Compensation for Abused Dependents*. This instruction requires maintaining information protected by the Privacy Act of 1974, as authorized by Title 5, United States Code (U.S.C.), Section 552a. System of Records Notice F065 AFAFC J, Pay and Allotment Records, applies. Refer to **Attachment 1** for a glossary.

The Military Personnel Flight (MPF) will be the office of primary responsibility (OPR) for this program.

**SUMMARY OF REVISIONS**

This revision highlights the MPF as the OPR for this program; changes the applicability date from 30 November 1993 to 29 November 1993; changes the no payment before date from 1 December 1993 to 30 November 1993; includes the number and title for medical and dental Air Force instructions as related to this program; adds that the payments received under this program are non-taxable and includes examples of inclusive periods for compensation payments; directs that a direct deposit form or waiver certificate must accompany all applications before payments can be made; clarifies when a child can and can not receive payments; clarifies the responsibilities of the installation, MPF, and unit commanders; adds guidance for applicants who may be eligible to apply for a percentage of the member's retirement pay under the Uniformed Services Former Spouse Protection Act; and changes office symbol, phone and fax numbers for Defense Finance and Accounting Service (DFAS).

**1. Uniformed Services Former Spouse Protection Act.** A former spouse or legally separated spouse may be entitled to a percentage of retirement pay designated by a court if the member had 20 plus years of active service even if the member was not eligible to receive the retirement pay:

1.1. For application procedures and guidance, the MPF may contact or have the applicant contact: DFAS-CL/L (ATTN: Michelle Bond) P.O. Box 998002, Cleveland OH 44199-8002 or call Commercial (216) 522-5404 or DSN: 580-5404, Fax: Commercial (216) 522-6821 or DSN 580-6821. The application form for this program is the DD Form 2293, **Application for Former Spouse Payments from Retired Pay**.

1.2. An applicant cannot receive both the percentage of retirement pay and transitional compensation. Once an applicant has received or is receiving one of these payments, the other cannot be applied for; therefore, it is very important to determine eligibility for retirement pay prior to applying for transitional compensation.

1.3. DFAS-CL/L will correspond directly with the applicant in lieu of the MPF.

## **2. Applicability and Scope.** This instruction applies to:

2.1. Dependents of members of the Armed Forces who have been on active duty for more than 30 days and who after 29 November 1993 are:

2.1.1. Separated from active duty under a court-martial sentence resulting from a dependent-abuse offense.

2.1.2. Administratively separated from active duty if the basis for separation includes a dependent-abuse offense; or

2.1.3. Sentenced to forfeiture of all pay and allowances by a court-martial which has convicted the member of a dependent-abuse offense.

## **3. Definitions:**

**3.1. Dependent-Abuse Offenses.** An offense by a military member on active duty for more than 30 days involving abuse against a current spouse or a dependent child of the member. This is a criminal offense as defined by Title 10, U.S.C., Sections 801-940 or other criminal code and is applicable to the jurisdiction where the act of abuse is committed. Examples include crimes such as sexual assault, rape, sodomy, assault, battery, murder, and manslaughter.

**3.2. Dependent Child.** An unmarried child, including an adopted child or a stepchild, who was residing with the military member at the time of the abuse offense, and who is:

3.2.1. Under 18 years of age.

3.2.2. Eighteen years of age or older and is incapable of self-support due to a mental or physical incapacity that existed before the age of 18; and who is currently dependent on the member for over one-half of the child's support; or was dependent on the member for over one-half of the child's support when a punitive or other adverse action was carried out on the member; or

3.2.3. Eighteen years of age or older, but less than 23 years of age; is enrolled in a full-time course of study in an institution of higher learning approved by the Secretary of Defense; and who is currently dependent on the member for over one-half of the child's support; or was dependent on the member for over one-half of the child's support when a punitive or other adverse action was carried out on the member.

**3.3. Member.** The term "member" includes "former member" where appropriate.

**3.4. Spouse.** The term “spouse” means a dependent spouse and, where appropriate, includes “former spouse.”

**4. Policy.** It is DoD policy to provide monthly transitional compensation payments and other benefits described herein for dependents of members who are separated for dependent abuse.

## **5. Procedures:**

**5.1. Recipients of Payments.** Payments will be made to eligible dependents as follows:

5.1.1. If the member was married when the offense occurred, payment will be made to that spouse. The spouse will receive compensation for themselves and each dependent child in their custody. A spouse can receive the child portion of the compensation even if the child resides away from the home (e.g., non-physical custody) as long as the spouse has legal custody.

5.1.2. If the spouse is ineligible under paragraph **5.5.** to receive payment because of remarriage, cohabitation, or active participation, payments will be made to each dependent child of the member not residing in the household of the member or the spouse.

5.1.3. If there is no eligible spouse for reasons other than those listed in paragraph **5.1.2.** (EXAMPLE: The member had no dependent spouse or spouse has died), payments will be made to the dependent children of the member who do not reside in the household of the member.

5.1.4. Status as a “dependent child” is determined as of the date on which the member is convicted of the offense or as of the date of the member’s administrative separation, whichever is applicable.

5.1.5. If recipients are incapable of handling their affairs, payment may be made only to a court-appointed guardian. For a dependent child under 18 years of age, payments will be made only to a court-appointed guardian or a natural parent (who is not a spouse of the member), if the natural parent has legal custody.

5.1.6. Children residing away from and eligible spouse are not entitled to apply for compensation. (Example: A dependent child moves out of the home of the eligible spouse and moves in with a grandparent. That child would not be able to apply for compensation on their own right.)

## **5.2. Payment Commencement and Duration:**

5.2.1. Payment commences on the date: (1) the person acting under Title 10, U.S.C., Section 860(c) approves the court-martial sentence for a dependent-abuse offense that includes a dismissal, dishonorable discharge, bad conduct discharge, or forfeiture of all pay and allowances; (2) the member’s commander starts administrative separation action if the basis for separation includes a dependent-abuse offense. This date will be the date used in Item 20 of the DD Form 2698, **Application for Transitional Compensation**, and no payment will be made if the date is prior to 30 November 1993. See paragraph **9.3.** for examples.

5.2.2. The duration of payments will be 36 months except, if as of the starting date of payment, the unserved portion of the member’s obligated active duty service is less than 36 months, the duration of payment will be the greater of the unserved portion or 12 months. See paragraph **9.3.** for examples.

## **5.3. Payment Amount:**

5.3.1. Monthly payments to a spouse will be at the rate in effect for the payment of dependency and indemnity compensation under Title 38, U.S.C., Section 1311(a)(1). If the spouse has custody of a dependent child or children of the member, the amount of monthly compensation to the spouse will increase for each child by the amount in effect under Title 38, U.S.C., Section 1311(b). If there is no eligible spouse, compensation paid to a dependent child or children will be paid in equal shares at the rate in effect under Title 38, U.S.C., Section 1313.

5.3.2. Payments will be prorated for months when payments start or stop in the middle of a month.

5.3.3. For children, if the payment amount does not divide evenly, the youngest child will get the odd cent.

5.3.4. Payments will stop effective the date of death of the recipient and no remaining payments will be made.

#### **5.4. Cessation of Payments:**

5.4.1. Payment will stop effective the 1st day of the 1st month following the month in which the recipient is notified, in writing, that payment will cease for the following reasons:

5.4.1.1. The member is sentenced by a court-martial to receive punishment that includes a dismissal, dishonorable discharge, bad conduct discharge as a result of a conviction for a dependent-abuse offense or forfeiture of all pay and allowances and the punishment is remitted, set aside, or mitigated to a lesser punishment that does not include any such punishment.

5.4.1.2. The administrative separation of a member from active duty is proposed on a basis that includes a dependent-abuse offense and the proposed administrative separation is disapproved by competent authority.

5.4.1.3. The recipient will not be required to repay transitional compensation received before the cessation effective date determined except as necessary to recoup any amount that was erroneous when paid.

#### **5.5. Forfeiture Provisions:**

**5.5.1. Remarriage.** If a spouse receiving payments remarries, payments terminate on the date of remarriage. Payments will not be restarted if the remarriage is terminated. If payments to the spouse terminate due to remarriage and there is a dependent child not living in the same household as the spouse or member, payments will be made to the dependent child.

**5.5.2. Cohabitation.** If the member lives in the same house as the spouse or dependent child to whom compensation is payable under this instruction, payment will terminate on the date the member begins living in the household. Once terminated, payments will not be resumed. Compensation paid before the member resides in the household will not be recouped.

**5.5.3. Active Participant.** If the victim was a dependent child and the Installation Commander finds the spouse actively participated in the conduct constituting the criminal offense or actively aided or abetted the member in such conduct against the dependent child, the spouse, or dependent child living with the spouse, will not be paid transitional compensation.

**5.5.4. Annual Certification.** Provide the spouse or applicant the DFAS address as shown in paragraph 10.10.1. and advise them they must notify DFAS within 30 days of the date of remar-

riage or the date the member begins residing in the same household as the spouse or dependent child:

5.5.4.1. The spouse (or other individual receiving compensation payments) will annually certify to DFAS on a Certificate of Eligibility (COE) that he or she has not remarried and has not been cohabiting with the member.

5.5.4.2. Dependent children (or the individual receiving payments) will annually certify via the COE process that they are not cohabiting with the member or ineligible spouse.

**5.6. Coordination of Benefits.** A spouse may not receive payments under both sections 1059 and 1408(h)(1) of Title 10, U.S.C. If a spouse is otherwise eligible for both, the spouse must elect which to receive. (See paragraph 1 in this instruction.)

**5.7. Source of Funds.** Transitional compensation will be paid from a centralized Air Force fund and will not be considered taxable income.

**5.8. ID Cards.** Issue an identification card with authorized benefits in accordance with AFI 36-3001, *Issuing and Controlling Identification Cards*, paragraph 2.35.

**5.8.1. Commissary and Exchange Benefits:**

5.8.1.1. Recipients are entitled to use commissary and exchange stores while receiving transition compensation payments, the same as dependents of members on active duty for a period of more than 30 days.

5.8.1.2. If a recipient eligible to use the commissary and exchange stores per paragraph 5.8.1.1. is also eligible under another law, eligibility and entitlement will be determined under the other law and not this instruction. Refer to AFI 36-3001, paragraph 2.35.

**5.9. Medical Benefits.** Medical benefits are not included in the identification card; however, a dependent of a member who has been separated due to a dependent-abuse offense may receive medical or dental care in a Medical Treatment Facility (MTF) or through the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS). Receipt of the medical or dental care is subject to the following:

5.9.1. Eligible dependents of a member who receives a dishonorable or bad conduct discharge is dismissed as a result of a court-martial conviction or is administratively separated for a dependent-abuse offense are entitled to medical or dental care for problems associated with the abuse. Entitlement to such care is limited to a period of 1 year following the member's separation. Eligibility will be granted only upon request to the Secretary of the Air Force (AFI 41-115, *Authorized Health Care and Health Care Benefits in the Military Health Services Systems(MHSS)*). The Secretary of the Air Force will make the determination of whether an offense involved abuse of a dependent.

5.9.2. Eligible dependents of a member who is retirement eligible may receive medical and dental care under Title 10, U.S.C., Section 1408[h] (Reference [b]):

5.9.2.1. Refer to AFI 36-3025, *TRICARE - Active Duty Family Member Dental Plan (FMDP)* maintained by the MPF Customer Service Element and to the local MTF for additional information and guidance on medical or dental benefits, AFI 41-115.

**6. Responsibilities:**

## **6.1. Major Commands, Field Operating Agencies, and Direct Reporting Units:**

6.1.1. Monitor and guide subordinate units. Refer problems or questions to HQ AFPC/DPSFC (see paragraph **10.10.3.** of this instruction for address and phone number).

## **6.2. Installation Commanders:**

6.2.1. Coordinate on responses to high-level and congressional inquiries. Assess cases or requests and render decisions based on the merits of the case.

6.2.2. Determine whether the spouse was an active participant or actively aided or abetted the member in abuse against the dependent child. Ensure the spouse is notified, in writing, that the evidence shows his or her active participation or aiding or abetting, and that he or she has 10 calendar days from the mailing of such notice to respond in writing. If the 10-day suspense is met, the response will be considered in determining whether transitional compensation is approved.

6.2.3. Approve requests for transitional compensation by completing Item 22 of the DD Form 2698 and return the case file to the MPF for disposition.

6.2.4. May delegate, in writing, the above duties to group commanders.

## **6.3. Unit Commanders:**

6.3.1. Ensure affected family members are informed of the program and assistance is available.

6.3.2. Assist family members with the application process and ensure the DD Form 2698 is completed on members from their organization prior to referring the applicant to the MPF for final processing. Coordinate actions with the Staff Judge Advocate (SJA) and MPF as required.

## **6.4. MPF Commanders:**

6.4.1. Assign an element in the MPF to administer the program. Provide point of contact (POC) information (i.e., office symbol, duty phone, and FAX number) to HQ AFPC/DPSFC, 550 C Street West, Suite 37, Randolph AFB TX 78150-4739. Update POC information as needed.

6.4.2. Ensure the DD Form 2698 is completed and that the applicant has signed and dated items 12a and b. Ensure there is no fund cite in Item 24 (DFAS inserts the fund cite) and then MPF Commander signs in Item 25 of the DD Form 2698.

6.4.3. Coordinate the collection of information to determine the validity of the claim, authorized recipients, and the duration of the payments, and consult with SJA (see paragraph **7.**) and unit commanders for information.

6.4.4. Develop and coordinate responses with the installation commander on high-level and congressional inquiries.

## **7. Staff Judge Advocate:**

7.1. Assists MPF representative in gathering data required to complete the DD Form 2698.

7.2. When additional information is required, consults with the SJA where the separation or court-martial occurred.

7.3. Reviews claims (DD Form 2698) for legal sufficiency and provide written legal reviews to installation commanders.

**8. Use this AFI in conjunction with DoDI 1342.24, *Transitional Compensation for Abused Dependents*.**

**9. DD Form 2698 Clarification:**

**9.1. Definition of Obligated Active Duty Service (OADS) (Item 19):**

9.1.1. For enlisted members: The time remaining on their term of enlistment (Item 19b, DD Form 2698) (e.g., member enlisted or reenlisted last on 10 December 1995 for 4 years--OADS on Item 19b, DD Form 2698, would be 9 December 1999).

9.1.2. For officers: Indefinite (or none) unless there is a date of separation established; then it will be the time remaining until separation (Item 19c, DD Form 2698).

**9.2. Date of Approval of the Court-Martial Sentence or Administrative Separation (Item 20):**

9.2.1. Verify data with SJA.

9.2.2. This is the date the convening authority approves the court-martial sentence that includes a dismissal, dishonorable discharge, bad conduct discharge or forfeiture of all pay and allowances; or the date the commander initiated the administrative discharge for a dependent-abuse offense.

**9.3. Payment Dates (Item 21):**

9.3.1. Step 1: The start date in Item 21a will be the same date used in Item 20.

9.3.2. Step 2: Subtract the date in Item 19b or 19c from the date in Item 20. This will determine the number of months for the payment. If the number of months equals less than 12 months, use 12 months. If the number of months equals 12 or more, use that number of months not to exceed 36 months.

9.3.3. Step 3: Add the number of months from Step 2 to the start date used in Item 21a and this will be the date you use in Item 21b. **EXAMPLE:**

9.3.3.1. The date in Items 19b or 19c is 3 January 1999.

9.3.3.2. The date in Item 20 is 4 January 1997.

9.3.3.3. Subtract (3 January 1999 - 4 January 1997). This equals to: 24 months.

9.3.3.4. Add the 24 months to the date in Item 20 (4 January 1997 + 24 months). This equals to: 3 January 1999.

9.3.3.5. In this example, the start date in Item 21a is 4 January 1997 and the stop date in Item 21b is 3 January 1999).

**9.4. Non-Payment.** No payment will be made if the date in Item 20 is before 30 November 1993. In the case when the convening authority approved the court-martial sentence on a date prior to 30 November 1993, but the execution of discharge was 30 November 1993 or after, use the later date in Item 20 (**EXAMPLE:** Convening authority approves court-martial sentence on 25 August 1992, but the execution of discharge was on 6 January 1994, then you would use 6 January 1994 in Item 20). (See paragraph 9.2.2.)

**10. Application Procedures:**

10.1. Applicant initiates request for transitional compensation through the member's unit commander or through the MPF at any Air Force installation when the applicant is no longer at the installation in which the member was assigned. Applicants will provide documents (**EXAMPLE:** DD Form 214, **Certificate of Release or Discharge From Active Duty**, court documents, etc.) to assist in the completion of the DD Form 2698.

10.2. The Debt Collection Act of 1996 requires that all recurring payments issued by government agencies be issued by direct deposit. All applicants must submit a direct deposit form from their bank or submit a waiver "certifying the payee does not have a financial institution or authorized payment agent" in order to receive their monthly payments.

10.3. MPF or unit representative will coordinate the collection of information necessary to complete the DD Form 2698 with SJA and commander.

10.4. The MPF or unit commander representative, from service records (or as provided by SJA or unit commander), enters all information on the DD Form 2698 except Item 12.

10.5. The applicant will complete Item 12 of DD Form 2698, then sign and date on Item 12a and 12b.

10.6. MPF commander will sign and date in Items 25a and 25b and complete Items 25c-25h. **NOTE:** DFAS will complete Item 24--leave blank.

10.7. The MPF will coordinate the completed DD Form 2698 with the SJA to determine the validity of the claim, the recipients, and duration of payments. SJA will provide a written legal review for the installation commander.

10.8. The MPF or SJA will forward all gathered information along with applicant's signed DD Form 2698 to the installation commander (or designee) for final determination after SJA coordination.

10.9. Installation commander will complete and sign Items 22a-h.

10.10. Upon approval by the installation commander (or designee) MPF will forward the DD Form 2698 and direct deposit form (or) waiver to: Note: Do not send any other extraneous documentation with the package.

10.10.1. DFAS-DE/FRBS, 6760 East Irvington Place, Denver CO 80279-6000 for payment. To contact DFAS call DSN: 926-8861 or COMM: (303) 676-8861 or 1-800-435-3396; FAX: 926-8899, COMM FAX: (303) 676-8899 or 1-800-982-8459.

10.10.2. Mail a courtesy copy of the approved application (DD Form 2698) and direct deposit form (or) waiver to AF/DPPC, 1040 Air Force Pentagon, Washington D.C. 20330-1040 or DSN FAX to 227-8453 (DSN voice number: 225-0060).

10.10.3. Mail a courtesy copy of the approved application (DD Form 2698) and direct deposit form (or) waiver to HQ AFPC/DPSFC, 550 C Street West, Suite 37, Randolph AFB TX 78150-4739 or DSN FAX to 487-5982 (DSN voice number: 487-3415).

10.10.4. To the applicant.

10.10.5. To the unit commander if applicable.

10.11. The MPF will maintain a file copy of the complete package.



**11. Form Prescribed . DD Form 2698, Application for Transitional Compensation.**

MICHAEL D. McGINTY, Lt General, USAF  
DCS/Personnel

## **Attachment 1**

### **GLOSSARY OF REFERENCES, ABBREVIATIONS, AND ACRONYMS**

#### ***References***

AFPD 36-30, *Military Entitlements*

AFI 36-3001, *Issuing and Controlling Identification Cards*

AFI 41-115, *Authorized Health Care and Health Care Benefits in the Military Health Services Systems*

AFI 36-3025, *TRICARE - Active Duty Family Member Dental Plan (FMDP)*

DoDI 1342.24, *Transitional Compensation for Abused Dependents*

Privacy Act of 1974

Title 10, U.S.C., Sections 801-940, 1059, and 1408(h)(1)

Title 37, U.S.C., Sections 401 and 1072

Title 38, U.S.C., Sections 1311(a)(1), 1311(b), and 1313

System of Records Notice F177 AFAFC K, *Pay and Allotment Records*

#### ***Abbreviations and Acronyms***

**AFPD**—Air Force Policy Directive

**CHAMPUS**—Civilian Health and Medical Program

**COE**—Certificate of Eligibility

**DFAS**—Defense Finance and Accounting Service

**DFAS-CL**—Defense Finance and Accounting Service - Cleveland Center

**DFAS-DE**—Defense Finance and Accounting Service - Denver Center

**DoD**—Department of Defense

**FMDP**—Family Member Dental Plan

**MPF**—Military Personnel Flight

**MTF**—Medical Treatment Facility

**OADS**—Obligated Active Duty Service

**OPR**—Office of Primary Responsibility

**POC**—Point of Contact

**SJA**—Staff Judge Advocate

**U.S.C.**—United States Code